

ORDINANCE NO. 2005-02

AN ORDINANCE TO AMEND AND RESTATE IN ITS ENTIRETY THE PORT SHELDON TOWNSHIP CEMETERY ORDINANCE (ORDINANCE NO. 2003-01) BEING AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE BY ESTABLISHING REGULATIONS RELATING TO THE OPERATION, CONTROL AND MANAGEMENT OF CEMETERIES OWNED BY THE TOWNSHIP OF PORT SHELDON, OTTAWA COUNTY, MICHIGAN; TO PROVIDE PENALTIES FOR THE VIOLATION OF THE ORDINANCE; AND TO REPEAL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE.

THE TOWNSHIP OF PORT SHELDON, OTTAWA COUNTY, MICHIGAN,
ORDAINS:

Section 1. Title.

This Ordinance shall be known as the Port Sheldon Township Cemetery Ordinance.

Section 2. Definitions.

For purposes of this Ordinance, the following terms shall have the following definitions:

- A. Babyland: An area of the Cemetery designated exclusively for the burial of children less than three years of age and including stillborns.
- B. Burial Right: The right of burial in a grave site or cremains space in the Cemetery.
- C. Cemetery: Any cemetery owned and operated by the Township.
- D. Cremains space: An area of land four feet wide and three feet long for the burial of the remains of a human body after cremation.
- E. Family monument or family marker: A monument or marker for burials of deceased family members where four or more adjoining grave sites are purchased for such use.
- F. Grave site: An area of land four feet wide and nine feet long, except in Babyland in which a grave site shall be four feet wide and four and one-

half feet long, for the interment/burial as provided in Section 7. A.

- G. Marker: A memorial made of durable granite, marble or bronze which is level with the ground surface of a grave site or cremains space.
- H. Monument: A tombstone, headstone or grave memorial made of durable granite or marble that extends above the level of the ground surface of a grave site.
- I. Purchaser: A natural person acquiring a burial right in the Cemetery by agreement and purchase from the Township. A purchaser shall also include any permitted transferee of a burial right.
- J. Sexton: The person duly appointed by the Township Board to serve in the capacity of Cemetery Sexton, or in the case of a vacancy or a failure to appoint a Sexton, the term shall mean the Township Supervisor.
- K. Township: The Township of Port Sheldon.

Section 3. Designation of Cemetery Areas.

The Township Board, from time to time by resolution, may designate, establish, alter and reserve areas in the Cemetery for use for a Babyland, for cremains spaces only, for grave sites with monuments only, and for grave sites with markers only.

Section 4. Sale of Burial rights.

The sale of a burial right shall be made on the form approved by the Township Board, which form shall include, without limitation, the name of the purchaser, resident, owner of real property in the Township, or non resident status, and the specific grave site or cremains space acquired under the burial right. Such form shall be signed by the purchaser and by the Township Clerk on behalf of the Township. Any such sale is subject to the following regulations and restrictions:

- A. The burial rights may be used only for the burial of one of the following:
 - i. The purchaser, or
 - ii. The purchaser's spouse, parents, children, grandchildren and a spouse of a child or grandchild.

A purchaser may acquire more than one grave site or cremains space to provide for those listed in 4.A.ii above; however, each grave site or cremains space shall require a separate purchase of a burial right.

- B. No sale of burial rights shall be made to funeral directors in their role as funeral directors. Any sale to a funeral director shall be to him/her as an

individual, to provide for burial of those listed in 4.A.i. and ii.

- C. The sale of a burial right does not convey any title to, ownership of or property interest in the grave site or cremains space; only a right of burial is granted.
- D. The completed purchase form shall constitute a burial permit for the burial of an eligible deceased person or of cremated remains of an eligible deceased person. The original burial permit shall be delivered to the purchaser and the Township Clerk shall retain a copy in the Township records.

Section 5. Transfer of Burial Rights.

A burial right may be transferred. A transfer may be effected only upon the written approval of the Township Clerk after receiving a written transfer request signed by the current owner of the burial right and the proposed transferee . The original burial permit shall be submitted with the request, along with the payment of the transfer fee as well as the payment of an adjusted fee if current owner is resident or property owner in Port Sheldon Township and transferring to a non-resident , non property owner at the fee schedule amount in effect at time of transfer. Upon approval, the Township Clerk shall note the transfer on the original burial permit, shall attach the written transfer request and approval to the original burial permit, enter the transfer in the official records of the Township Clerk and issue a new burial permit form to the transferee purchaser.

Section 6. Purchase Price and Transfer Fees.

To provide for costs of acquisition, construction, administration, operation and maintenance, the Township Board, from time to time, shall establish by resolution a schedule of prices and fees for the purchase of a burial right, for the transfer of a burial right, for the renewal of a burial right, and for the opening and closing of a grave site or cremains space (includes disinterment, removal or reinterment).

The purchase price and all fees shall be paid in full at the time of purchase, transfer or grave site or cremains opening, as the case may be. Payments shall be made to the Township Treasurer and shall be deposited in the general fund of the Township.

Section 7. Regulations for Burial.

- A. A grave site shall be used for only one of the following:
 - i. The burial of one deceased person.
 - ii. The burial of one deceased person and the cremated remains of one deceased person.

- iii. The cremated remains of two deceased persons.
 - iv. A mother and her child (children) who die at childbirth.
 - v. Multiple births who are stillborn.
- B. A cremains space shall be used for only one of the following:
- i. The cremated remains of one deceased person.
 - ii. The cremated remains of two deceased persons.
- C. Burial in a grave site shall be with a standard concrete vault installed before burial; except as provided in Section 7.D.
- D. Cremated remains shall be in a properly sealed container for the burial.
- E. Burials in grave sites or cremains spaces, disinterments and removals and related services shall be prohibited on Sundays and the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Eve Day, and Christmas Day. Burials, disinterments and removals and related services held or conducted after 3:00 p.m. Monday through Friday or on a Saturday may be subject to an additional fee established from time to time by Township Board Resolution.
- F. Due to the potential for inclement weather, concern for the safety of persons attending burial services, snow-removal requirements, and other related considerations, no burials and related services are permitted from December 1 through March 1, except as may be approved by the Sexton in his discretion. In deciding whether to grant or deny a request, the Sexton may consider the following factors: weather conditions, site conditions, including snow cover and ground frost, the ability to accurately locate the grave site or cremains space, the snow-plowing requirement, and the safety of persons attending the burial services. The Township may charge an additional fee as established from time to time by resolution for burials during such months. Further, at other times of the year, the Sexton may deny a request for burial and/or services, where weather and site conditions present health and safety concerns or the potential for damage to the Cemetery.
- G. Not less than 36 hours notice shall be given in advance of the time requested for burial to allow adequate time to open the grave site or cremains space. Such notice shall be given to the Township Clerk or the Township Sexton and, prior to the date of burial, the Township Clerk must be provided with the burial permit for the grave site or cremains space, together with a Certificate of Death of the deceased person to be buried. The Township Clerk shall be satisfied that the deceased persons is eligible for burial in the grave site or cremains space and shall notify the person

promptly of any determination that the burial is unauthorized. In the event that the original burial permit of the purchaser has been lost or destroyed, the Township Clerk may consult the Township records to determine the eligibility for such burial.

- H. Except as to proceedings for the removal, exhumation and reinterment under supervision of the local health department or under court order, no grave site or cremations space shall be opened or closed without the direction and control of the Township Sexton.

Section 8. Monuments and Markers.

All monuments and markers must be approved by the Sexton and shall be placed on the grave site or cremains space in the location specified by the Sexton.

- A. Monuments may only be placed on grave sites within an area of the Cemetery designated for monuments only. The following regulations shall apply:
 - i. Only one monument shall be permitted for a grave site and shall be located on the grave site of the deceased persons listed on the monument. However, if a monument is intended to be used as a memorial for two deceased individuals having grave sites side-by-side, then the monument shall be placed to straddle both grave sites. The location of a family monument shall be determined by the Sexton.
 - ii. No monument shall be larger than 36 inches long by 16 inches wide by 36 inches in height. However, a family monument may be approved by the Sexton for a greater length and width, but in no event shall a family monument exceed 36 inches in height.
 - iii. All monuments must be set upon a solid concrete foundation which must have a minimum depth of 18 inches below ground and which must extend 2 inches beyond all sides of the monument. The Sexton may require a deeper foundation if determined necessary to provide adequate support for the monument. The foundation shall be level with the surface of the ground.
- B. Markers shall be placed on grave sites within the area of the Cemetery designated for markers only. The following regulations shall apply:
 - i. Only one marker shall be permitted for a grave site and shall be located on the grave site of the deceased person(s) cited on the marker. However, if a marker is intended to be used as a memorial for two deceased individuals having grave sites side-by-side, then

the marker shall be placed to straddle both grave sites. The location of a family marker shall be determined by the Sexton.

- ii. The marker shall not exceed 36 inches in length by 14 inches in width.
 - iii. A marker shall be installed to be level with the ground.
 - iv. A marker shall have a concrete foundation which shall have a minimum depth of 18 inches below ground level and which shall extend a minimum of 2 inches beyond the marker on all sides.
- C. Only markers shall be placed on cremains spaces within the area of the Cemetery designated for the burial of cremains. The markers shall conform to the provisions of 8.B.ii-iv. Only one marker shall be permitted for a cremains space, and no marker may be used for more than one cremains space.
- D. No borders of cement, brick, stone, fencing, or other materials shall be allowed on any grave site or cremains space. Only grass may be used to cover a grave site and a cremains space.
- E. One Veteran memorial marker shall also be permitted on the grave site or cremains space of a deceased veteran. The Sexton shall place such veteran memorial marker.
- F. All memorials and markers, together with their foundations shall be maintained and kept in a proper position by the family of the deceased person(s) buried in the grave site or cremains space. The Township shall have no responsibility to maintain, repair or replace any memorial, marker or foundation.

Section 9. Grounds Maintenance.

Grading, leveling, excavating and maintenance upon the Cemetery grounds shall be allowed only as authorized by the Township Board.

No flowers, shrubs, trees or vegetation of any type, and no artificial flowers or plants, shall be planted or placed on or around any grave site or cremains space. Funeral flowers and temporary memorials may be displayed temporarily only and must be removed by one week after the burial. One green cemetery pail with a floral liner for live flowers is permitted to be set by the monument or marker during the months of April through September. Any items placed or planted in violation of these guidelines may be removed by the Township or the Sexton.

The Township Board reserves the right to plant, remove or trim any tree, plant or

shrub located within the Cemetery in the interest of maintaining proper appearance and use of the Cemetery.

Section 10. Forfeiture of Burial Rights.

A burial right sold after the effective date of this Ordinance for which the grave site or cremains space remains unused for 80 years from the date of sale, may be renewed or may revert to ownership by the Township as outlined below:

- A. At least 90 days prior to the expiration of the 80-year period, the Township Clerk shall send notice by certified mail to the last known purchaser at the last known address, informing him/her of the expiration of the 80-year period and outlining the following options:
 - i. That the purchaser may send a written response, to the Township within 60 days of receipt of the notice, indicating a desire to retain the burial right, with the payment of the fee for renewal. The purchaser's rights are renewed for the following 80 years.
 - ii. That the purchaser may send a written response to the Township within 60 days of the receipt of the notice, relinquishing interest in the burial right. Upon receipt of the response, the Township shall reimburse to the purchaser the original purchase price charged for the burial right and the Township shall regain possession of the rights to the grave site or cremains space.
- B. In the event that the purchaser (owner-of-record) is deceased, the heir or legal representative must update the ownership records with the Township Clerk, bearing in mind the restrictions in Section 4 above.
- C. In the event that the Township, after due diligence, is unable to locate the purchaser (owner-of-record), and is unable to determine the purchaser's heirs or legal representative, ownership of the grave site or cremains space shall immediately revert to the Township without payment at the expiration of such 80-year period.
- D. Any grave site or cremains space that reverts to the Township's possession under this section may be resold by the Township.

Section 11. Repurchase of Burial Rights.

A purchaser or the purchaser's heirs or legal representatives may request the Township to repurchase a burial right. Such request shall be written and shall identify the specific burial right involved. The Township Board, in its discretion, may decide whether to repurchase such right and, if it approves the request, it shall repurchase the burial right for the original price paid to the Township.

Section 12. Records.

The Township Clerk shall maintain records concerning all burials, issuance of burial permits and any related records, separate and apart from any other records of the Township, and the same shall be open to public inspection at all reasonable business hours.

Section 13. Cemetery Regulations.

- A. Cemetery hours: The Cemetery shall be open to the general public daily from sunrise to sunset. Any person found on the Cemetery grounds when the Cemetery is not open may be treated as a trespasser.
- B. Cemetery Roads and Vehicles:
- i. The roads and parking areas within the Cemetery shall not be considered a public roadway for vehicles or pedestrians. Such roads and parking areas are devoted only for access to locations in the Cemetery for purposes of burial services and of visiting grave sites or cremains spaces.
 - ii. No person may drive a vehicle in excess of 10 miles per hour in the Cemetery.
 - iii. Vehicles shall use and remain on the established Cemetery roads and parking areas, except vehicles necessary for opening and closing grave sites and cremains spaces. Pedestrians shall use the Cemetery roads; however, a person may walk upon or across grave sites, cremains spaces and lawn areas when necessary to gain access to a grave site or cremains space.
 - iv. No person may operate a vehicle in the Cemetery for recreational purposes.
- C. Pets: No person shall allow a pet or other animal to run loose and no person shall walk or exercise a pet within the Cemetery.
- D. Cemetery vegetation and wildlife: Other than maintenance or as otherwise authorized by the Township, no person shall plant, pick, or remove any flowers, wild or cultivated. No person shall break, injure, trim or remove any tree, shrub or plant on the Cemetery grounds. No person shall hunt, destroy or otherwise disturb animal life within the Cemetery.
- E. Monuments, Marker and Structures: No person shall move, destroy, deface, write upon or otherwise damage any monument, marker, building,

fence, water piping or other structure in the Cemetery.

- F. Conduct: No person shall loiter, litter, engage in recreational activities, use profane language or bring or consume alcoholic beverages in the Cemetery.
- G. Signs: No person or entity shall place or cause to be placed in the Cemetery any sign, advertisement or notice of any kind, unless authorized by the Sexton.

Section 14. Penalties.

Any person or entity violating any provision of this Ordinance shall be subject to a penalty consisting of a fine not to exceed \$500.00 and/or imprisonment not exceeding 90 days as may be determined by a court of competent jurisdiction as in a misdemeanor proceeding. Each day that a violation continues shall constitute a separate offense. The penalties under this section shall be cumulative and shall not prevent a civil action by the Township for appropriate injunctive relief and/or damages caused by any violation.

Section 15. Liability for Damages.

No officer, agent, sexton or employee of the Township shall be liable for any damage that may occur to any persons or property as a result of any act, decision, omission or other consequence or occurrence arising out of the discharge of duties or responsibilities pursuant to this Ordinance or the normal course of cemetery operations. The Township shall not be held responsible for damages by the elements, acts of God, common enemies, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or the order of any military or civil authority, whether the damages may be direct or collateral.

Section 16. Severability.


The provisions of this Ordinance are hereby declared to be severable and should any provision, section or part thereof be declared invalid or unconstitutional by any court of competent jurisdiction, such decision shall only affect the particular provision, section, or part thereof involved in such decision and shall not affect or invalidate the remainder of such ordinance which shall continue in full force and effect.


Section 17. Repeal.

Ordinance 2003-01 is amended and is restated in its entirety by this amending ordinance. All other ordinances, resolutions, orders or parts thereof in conflict with this Ordinance, in whole or in part, are hereby repealed to the extent of any such conflict.

Section 18. Effective Date.

This Ordinance shall take effect on December 15, 2005 being a date 30 days after the first publication in the Holland Sentinel, a newspaper having general circulation in the Township, pursuant to the provisions of MCL 41.184, as amended.


Howard Baumann
Township Supervisor


Kathy Van Voorst
Township Clerk